

consistent with the Government's rights in technical data pertaining to the design (10 U.S.C. 7317; 17 U.S.C. 1301(a)(3)).

[60 FR 33471, June 28, 1995, as amended at 72 FR 51189, Sept. 6, 2007; 74 FR 61044, Nov. 23, 2009]

227.7103-2 Acquisition of technical data.

(a) Contracting officers shall work closely with data managers and requirements personnel to assure that data requirements included in solicitations are consistent with the policy expressed in 227.7103-1.

(b)(1) Data managers or other requirements personnel are responsible for identifying the Government's minimum needs for technical data. Data needs must be established giving consideration to the contractor's economic interests in data pertaining to items, components, or processes that have been developed at private expense; the Government's costs to acquire, maintain, store, retrieve, and protect the data; reprourement needs; repair, maintenance and overhaul philosophies; spare and repair part considerations; and whether procurement of the items, components, or processes can be accomplished on a form, fit, or function basis. When it is anticipated that the Government will obtain unlimited or government purpose rights in technical data that will be required for competitive spare or repair parts procurements, such data should be identified as deliverable data items. Reprourement needs may not be a sufficient reason to acquire detailed manufacturing or process data when items or components can be acquired using performance specifications, form, fit and function data, or when there are a sufficient number of alternate sources which can reasonably be expected to provide such items on a performance specification or form, fit, or function basis.

(2) When reviewing offers received in response to a solicitation or other request for data, data managers must balance the original assessment of the Government's data needs with data prices contained in the offer.

(c) Contracting officers are responsible for ensuring that, wherever practicable, solicitations and contracts—

(1) Identify the type and quantity of the technical data to be delivered under the contract and the format and media in which the data will be delivered;

(2) Establish each deliverable data item as a separate contract line item (this requirement may be satisfied by listing each deliverable data item on an exhibit to the contract);

(3) Identify the prices established for each deliverable data item under a fixed-price type contract;

(4) Include delivery schedules and acceptance criteria for each deliverable data item; and

(5) Specifically identify the place of delivery for each deliverable item of technical data.

227.7103-3 Early identification of technical data to be furnished to the Government with restrictions on use, reproduction or disclosure.

(a) 10 U.S.C. 2320 requires, to the maximum extent practicable, an identification prior to delivery of any technical data to be delivered to the Government with restrictions on use.

(b) Use the provision at 252.227-7017, Identification and Assertion of Use, Release, or Disclosure Restrictions, in all solicitations that include the clause at 252.227-7013, Rights in Technical Data—Noncommercial Items. The provision requires offerors to identify any technical data for which restrictions, other than copyright, on use, release, or disclosure are asserted and to attach the identification and assertions to the offer.

(c) Subsequent to contract award, the clause at 252.227-7013 permits a contractor, under certain conditions, to make additional assertions of use, release, or disclosure restrictions. The prescription for the use of that clause and its alternate is at 227.7103-6 (a) and (b).

[60 FR 33471, June 28, 1995, as amended at 78 FR 13544, Feb. 28, 2013]

227.7103-4 License rights.

(a) *Grant of license.* The Government obtains rights in technical data, including a copyright license, under and